

**IN THE CHANCERY COURT
FOR WASHINGTON COUNTY, TENNESSEE
AT JONESBOROUGH**

BOBBY MacBRYAN GREEN,

PLAINTIFF / PETITIONER,

v.

**JODI JONES,
HOWELL SHERROD,
BETTY ANN POLAHA, and
MARY LEE JONDAHL,**

Civil Action No. 41049

DEFENDANTS / RESPONDENTS.

STATEMENT OF FACTS

IN SUPPORT OF FUTURE PROCEEDINGS FOR SUMMARY JUDGMENT

Pursuant to Rule 56.03, Tennessee Rules of Civil Procedure, the plaintiff, Bobby MacBryan Green submits the following Statement of Facts in support of future proceedings for partial summary judgment :

1. Plaintiff became President of Southside Neighborhood Organization (hereinafter "SNO") on 19 October 2009 and served reliably in that office for thirteen months before the election of new SNO officers on 15 November 2010. *Affidavit of Bobby MacBryan Green* (hereinafter "*Green Affidavit*"), ¶ 1.

2. Plaintiff was then duly elected SNO President on 15 November 2010 for a definite term of two years, beginning 17 January 2011 and ending 15 January 2013.

Green Affidavit, ¶ 2.

3. Plaintiff has never failed to preside at any monthly meeting of SNO from October 2009 through June 2011. He has carefully and diligently studied SNO's *Bylaws*, SNO's adopted governing Authority (Robert's Rules of Order, Newly Revised, hereinafter "RONR"), SNO's *Special Rules of Order* and *Standing Rules*. SNO **must** comply with RONR except when the *Bylaws* and *Special Rules of Order* preclude such compliance. *Green Affidavit*, ¶ 3.

4. The SNO President is charged by the *SNO Bylaws* at page 1 with appointing all committee chairs, and Plaintiff promptly and reliably appointed the chair of every committee duly established by SNO. *Green Affidavit*, ¶ 4.

5. On 20 June 2011, Defendant Jodi Jones, the Vice-President, learned that Plaintiff would be out-of-state on Sunday 26 June 2011. Defendants' *Answer*, ¶ 5, ¶ 10. *Green Affidavit*, ¶ 5.

6. On 22 June 2011, Jodi Jones issued a Call for a special meeting of the SNO Executive Board on that Sunday 26 June 2011 at Holston Conference Center, 210 W. Maple Street. That Call contained no charges or specifications and made no accusation whatsoever that Plaintiff was incapacitated or that he had failed to carry out the responsibilities of President. Nor was Plaintiff ordered to appear and defend himself. *Green Affidavit*, ¶ 6.

7. Plaintiff heard nothing further until he was served by Constable Gillwater with the affidavits of Defendants Jones, Polaha, and Jondahl on 30 June 2011. Plaintiff noted that nothing in any affidavit sets forth proper foundation for the conclusion which is promulgated and further observed that the essence of each affidavit consists merely

of a sweeping legal conclusion which serves only to obfuscate the relevant specific facts. He has previously protested in the record of civil action number 41049 the improper character of these affidavits. *Green Affidavit*, ¶ 7.

8. Nothing in RONR or in the *SNO Bylaws* in any way attenuates the mandate that :

If, however, the bylaws provide that officers shall serve *only* a fixed term, such as “for two years” an officer can be deposed of office only by following the procedures for dealing with offenses by members outside a meeting; that is, an investigating committee must be appointed, it must prefer charges, and a formal trial must be held.

RONR, p. 643, lines 5-14. The *SNO Bylaws* do **not** state that ‘the Executive Board has authority to depose an elected officer without due process or regard for RONR.’ *Green Affidavit*, ¶ 8.

9. Plaintiff repeatedly requested from Defendant Polaha, the SNO Secretary and mother of Jodi Jones, all documents and available information concerning any action of the Executive Board. Polaha’s ongoing failure/refusal to respond has unjustly prejudiced Green. *Green Affidavit*, ¶ 9.

10. At the 18 July 2011 regular monthly meeting of SNO, Polaha distributed the purported Minutes of the 26 June 2011 purported special meeting of the Executive Board. This was the first time that Plaintiff was provided with the same, or anything containing similar detail. A genuine copy of those purported Minutes is attached hereto and incorporated herein by reference as *Exhibit Z*. *Green Affidavit*, ¶ 10.

11. “The Executive Board shall consist of the elected officers, the immediate past President, and the Committee Chairs.” *Green Affidavit*, ¶ 11.

12. As of 20 June 2011 and including 26 June 2011, all the following elected officers and appointed Committee Chairs were members of the Executive Board:

Jodi Jones (V-P)
Mary Lee Jondahl (Treasurer)
Betty Ann Polaha (Secretary)
Katherine Weiss (Archivist)
Christine Tober (Fraternity Relations Committee Chair)
Sarah Davis (Zoning Committee Chair)
Ken Harrison (Historic Preservation Committee Chair)
Karen Cajka (Traffic Committee Chair)
Neil Owen (Membership and Website Committee Chair)
Ben Connor (Block Captain Committee Chair)
Wanda Buda (Beautification Committee Chair)
Plaintiff (President and Yard Sale Committee Chair).

Green Affidavit ¶ 12.

13. Jones's Call for a special meeting of the Executive Board was addressed to neither Christine Tober (Fraternity Relations Committee Chair) nor Sarah Davis (Zoning Committee Chair) nor Ben Connor (Block Captain Committee Chair). Failure to notify every member precludes transaction of any business at such a called meeting. *Green Affidavit*, ¶ 13.

14. At the time and place specified in the Call for the special meeting of the Executive Board, neither Christine Tober nor Sarah Davis nor Ben Connor nor Katherine Weiss nor Karen Cajka nor Neil Owen nor Plaintiff Green were present. *Green Affidavit*, ¶ 14.

15 The only Executive Board members present at the time and place specified for the special meeting were Wanda Buda, Ken Harrison, and Defendants Jones, Polaha, and Jondahl, for a total of five [hereinafter "the gathering"]. On 26 June 2011, the gathering of these five members in one room or area was inadequate for a quorum

of the Executive Board and no business could have been transacted in the absence of a quorum. There was no valid action of the Executive Board. The only valid business meeting of the Executive Board within the last two years occurred in January 2010.

Green Affidavit, ¶ 15.

16. The gathering did not adopt charges and specifications against Plaintiff during the fifteen minutes they were assembled. *Green Affidavit*, ¶ 16.

17. The gathering did not vote to issue an order for Plaintiff to appear and show cause why he should not be discharged. *Green Affidavit*, ¶ 17.

18. The gathering did not hold a trial or enter a finding that Plaintiff was incapacitated or derelict in fulfilling the enumerated duties of SNO President. *Green Affidavit*, ¶ 18.

19. The SNO Bylaws at page 3 and RONR at page 640 both mandate “review” of an Executive Board discharge at the succeeding monthly meeting, or at an earlier called special meeting of the general membership. Such a review requires a vote by the SNO general assembly whether or not to sustain. *Green Affidavit* ¶ 19.

20. At the 18 July 2011 regular monthly meeting of the SNO general assembly, there was no vote or other action whatsoever to adopt or sustain the purported discharge action of the Executive Board, and there was no description of any relevant charge or evidence. At least a 2/3 vote by the general assembly is required to *Rescind* an election and depose an officer even when such an action is permitted by the bylaws, and there was no possibility of such a 2/3 vote on 18 July 2011. The purported discharge action was not “reviewed.” *Green Affidavit* ¶ 20.

21. From October 2009 until July 2011, Plaintiff never failed to competently

preside at any regular monthly meeting of the Organization. He has never failed to appoint the Chair of any valid SNO committee. Plaintiff is strong and healthy. He is neither incapacitated nor derelict in his responsibilities. In July 2011, from seven Executive Board members, he received a letter of praise for his past and recent contributions to SNO. *Green Affidavit* ¶ 21.

THIS THE 8th DAY OF SEPTEMBER 2011.

Respectfully submitted,

Bobby MacBryan Green, MD
Petitioner/Plaintiff
404 Holly Street
Johnson City, Tennessee 37604
423.928.1219

Attachment :

Exhibit Z - purported Executive Board Minutes